

(B) If NMFS determines no error exists in the calculation of the principal portion of refund amounts, NMFS will notify the affected processors of its determination.

(8) *Disbursement of refund checks.* Once all disputes received under paragraph (h)(7) of this section have been resolved, NMFS will authorize and provide necessary documentation for refund checks to be disbursed by the U.S. Treasury.

§ 679.51 General observer requirements (applicable through December 31, 1996).

(a) *Coverage requirements for operators of GOA and BSAI groundfish vessels.* Observer coverage is required as follows:

(1) *Mothership.* A mothership of any length that:

(i) Processes 1,000 mt or more in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer aboard the vessel each day it receives or processes groundfish during that month.

(ii) Processes from 500 mt to 1,000 mt in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer aboard the vessel at least 30 percent of the days it receives or processes groundfish during that month.

(iii) Each mothership that receives pollock harvested by catcher vessels in the CVOA, defined in Figure 2 of this part, during the second pollock season that starts on August 15 under § 679.23, is required to have a second NMFS-certified observer aboard, in addition to the observer required under paragraphs (a)(1) (i) and (ii) of this section, for each day of the second pollock season until the chum salmon savings area is closed under § 679.21(e)(7)(vi), or October 15, 1996, whichever occurs first.

(2) *Catcher/processor or catcher vessel.* A catcher/processor or catcher vessel:

(i) Except for a vessel fishing for groundfish with pot gear as provided in paragraphs (a)(2) (iv) and (v) of this section, 125 ft (38.1 m) LOA or longer must carry a NMFS-certified observer during 100 percent of its fishing days while fishing for groundfish.

(ii) Equal to or greater than 60 ft (18.3 m) LOA, but less than 125 ft (38.1 m) LOA, must carry a NMFS-certified observer during at least 30 percent of its fishing days in each calendar quarter in which the vessel participates for more than 3 fishing days in a directed fishery for groundfish. Each vessel that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry a NMFS-certified observer during at least one fishing trip during that calendar quarter for each of the groundfish fishery categories defined under paragraph (b) of this section in which the vessel participates.

(iii) Fishing with hook-and-line gear that is required to carry an observer under paragraph (a)(2)(ii) of this section must carry a NMFS-certified observer during at least one fishing trip in the GOA Eastern Regulatory Area during each calendar quarter in which the vessel participates in a directed fishery for groundfish in the Eastern Regulatory Area.

(iv) Equal to or greater than 60 ft (18.3 m) LOA fishing with pot gear must carry a NMFS-certified observer during at least 30 percent of its fishing days in each calendar quarter in which the vessel participates for more than 3 fishing days in a directed fishery for groundfish.

(v) Participating for more than 3 fishing days in a directed fishery for groundfish using pot gear must carry a NMFS-certified observer during at least one fishing trip during a calendar quarter for each of the groundfish fishery categories defined under paragraph (b) of this section in which the vessel participates.

(b) *Groundfish fishery categories requiring separate coverage.* Directed fishing for groundfish, during any fishing trip, results:

(1) *Pollock fishery.* In a retained catch of pollock that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(2) *Pacific cod fishery.* In a retained catch of Pacific cod that is greater than the retained catch of any other groundfish species or species group

that is specified as a separate groundfish fishery under this paragraph (b).

(3) *Sablefish fishery.* In a retained catch of sablefish that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(4) *Rockfish fishery.* In a retained aggregate catch of rockfish of the genera *Sebastes* and *Sebastolobus* that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(5) *Flatfish fishery.* In a retained aggregate catch of all flatfish species, except halibut, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(6) *Other species fishery.* In a retained catch of groundfish that does not qualify as a pollock, Pacific cod, sablefish, rockfish, or flatfish fishery as defined under paragraphs (b) (1) through (5) of this section.

(c) *Assignment of vessels to fisheries.* At the end of any fishing trip, a vessel's retained catch composition of groundfish species or species groups for which a TAC has been specified under § 679.20, in round weight or round-weight equivalents, will determine to which of the fishery categories listed under paragraph (b) of this section the vessel is assigned.

(1) *Catcher/processor.* A catcher/processor will be assigned to a fishery category based on retained groundfish catch composition reported on the vessel's WPR submitted to the Regional Director under § 679.5.

(2) *Catcher vessel delivery in Federal waters.* A catcher vessel that delivers to motherships in Federal waters will be assigned to a fishery category based on the retained groundfish catch composition reported on the WPR submitted to the Regional Director for that week by the mothership under § 679.5.

(3) *Catcher vessel delivery in Alaska State waters.* A catcher vessel that delivers groundfish to a shoreside processor or to a mothership in Alaska State waters will be assigned to a fishery category based on the retained groundfish catch composition reported

on one or more ADF&G fish tickets as required under Alaska Statutes at A.S. 16.05.690.

(d) *Coverage requirements for managers of BSAI and GOA groundfish shoreside processors.* Observer coverage is required as follows. A shoreside processor:

(1) That processes 1,000 mt or more in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer present at the facility each day it receives or processes groundfish during that month.

(2) That processes 500 mt to 1,000 mt in round weight or round-weight equivalents of groundfish is required to have a NMFS-certified observer present at the facility at least 30 percent of the days it receives or processes groundfish during that month.

(3) That offloads pollock at more than one location on the same dock; has distinct and separate equipment at each location to process those pollock; and that receives pollock harvested by catcher vessels in the CVOA during the second pollock season that starts on August 15, under § 679.23, is required to have a NMFS-certified observer, in addition to the observer required under paragraphs (d) (1) and (2) of this section, at each location where pollock is offloaded, for each day of the second pollock season until the chum salmon savings area is closed under § 679.21(e)(7)(vi), or October 15, 1996, whichever occurs first.

(e) *Coverage requirements for vessel operators of BSAI king and Tanner crab.* An operator of a vessel that harvests or processes king or Tanner crab must have one or more State of Alaska-certified observers aboard the vessel whenever king or Tanner crab are received, processed, or on board the vessel in the BSAI if the operator is required to do so by Alaska State regulations at 5 AAC 34.035, 34.082, 35.082, or 39.645.

[61 FR 31230, June 19, 1996, as amended at 61 FR 49981, Sept. 24, 1996]

§ 679.52 Observer coverage requirements for Research Plan fisheries (applicable after December 31, 1996).

(a) *BSAI and GOA groundfish and halibut from convention waters off Alaska—*

(1) *Operators of vessels.* An operator of a vessel that catches and retains groundfish or halibut, or a vessel that processes groundfish or halibut, must carry one or more NMFS-certified observers aboard the vessel whenever fishing operations are conducted, if the operator is required to do so by the Regional Director under paragraph (c) of this section.

(2) *Managers of shoreside processors.* A manager of a shoreside processor that processes groundfish or halibut received from vessels regulated under this part must have one or more NMFS-certified observers present at the facility whenever groundfish or halibut are received or processed, if the manager is required to do so by the Regional Director under paragraph (c) of this section.

(b) *BSAI king and Tanner crab—*(1) *Operators of vessels.* An operator of a vessel subject to this part must carry one or more NMFS-certified observers or ADF&G employees aboard the vessel whenever fishing or processing operations are conducted, if the operator is required to do so by the Regional Director under paragraph (c) of this section.

(2) *Managers of shoreside processors.* A manager of a shoreside processor that processes king or Tanner crab received from vessels regulated under this part must have one or more NMFS-certified observers, or ADF&G employees, present at the facility whenever king or Tanner crab is received or processed, if the manager is required to do so by the Regional Director under paragraph (c) of this section.

(c) *Annual determination of coverage level.* The appropriate level of observer coverage necessary to achieve the objectives of the Research Plan, given the funds available from the North Pacific Fishery Observer Fund, will be established annually under procedures in § 679.53.

(d) *Inseason changes in coverage level.* (1) The Regional Director may increase or decrease the observer coverage re-

quirements for the Research Plan fisheries at any time to improve the accuracy, reliability, and availability of observer data, and to ensure solvency of the observer program, so long as the standards of section 313 of the Magnuson Act and other applicable Federal regulations are met, and the changes are based on one or more of the following:

(i) A finding that there has been, or is likely to be, a significant change in fishing methods, times, or areas, or catch or bycatch composition for a specific fishery or fleet component.

(ii) A finding that such modifications are necessary to improve data availability or quality in order to meet specific fishery management objectives.

(iii) A finding that any decrease in observer coverage resulting from unanticipated funding shortfalls is consistent with the following priorities:

(A) Status of stock assessments.

(B) Inseason management.

(C) Bycatch monitoring.

(D) Vessel incentive programs and regulatory compliance.

(E) A determination that any increased costs are commensurate with the quality and usefulness of the data to be derived from any revised program, and are necessary to meet fishery management needs.

(2) The Regional Director will consult with the Commissioner of ADF&G prior to making inseason changes in observer coverage level for the crab observer program.

(3) NMFS will publish changes in observer coverage requirements made under this paragraph (d) in the FEDERAL REGISTER, with the reasons for the changes and any special instructions to vessels required to carry observers, at least 10 calendar days prior to their implementation.

(e) *Responsibilities—*(1) *Vessel responsibilities.* An operator of a vessel must:

(i) *Accommodations and food.* Provide, at no cost to observers, the State of Alaska, or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.